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Robert J. Feilbogen

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EXAMINER

BORLINGHAUS, JASON M

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/871,569	Applicant(s) FEILBOGEN ET AL.	
	Examiner JASON M. BORLINGHAUS	Art Unit 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/09/09 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 20 – 33, 37 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boesch (US Patent 5,897,621) in view of Mancini (US Patent 7,024,383).

Regarding Claim 20, Boesch discloses a hedging processor (server) for monitoring business transactions for goods of commerce (product) of a customer in a first type of currency (first currency associated with the customer user). (see col. 3, line 65 – col. 4, line 17) comprising:

- at least one input (network) for receiving business transaction information regarding a business transaction including purchases or sales of goods by a customer. (see col. 3, line 50 - col. 4, line 17);
- for receiving hedging rules (instructions) from the customer and set by the customer, wherein said hedging rules (instructions) define a first user-specified event (acceptable risk range) that triggers a processor to initiate an exchange of the customer's first type of currency (first currency associated with the customer user) to a second type of currency (second currency associated with the merchant) on the customer's behalf. (see col. 3, line 50 – col. 4, line 17; col. 7, lines 30 – 59; col. 9, lines 11 – 52);
- for receiving pricing rules (instructions) from the customer and set by the customer, wherein said pricing rules define a second user-specified event (customer request) to update foreign currency prices (exchange rate) of said goods. (see col. 11, lines 23 – 43);

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- for receiving public price information (exchange rate data) from at least one of a plurality of foreign exchange (FX) rate providers or FX liquidity providers. (currency brokers). (see col. 8, line 59 – col. 9, line 3);
- a processor operably arranged with said at least one input (network), the processor containing a computer readable program code for generating hedging instruction information to provide instructions to at least one of the plurality of FX rate providers or FX liquidity providers (currency brokers) to exchange (convert) from said first type of currency to said second type of currency. (see col. 14, lines 2 – 24);
- based on said hedging rules and the occurrence of the first user specified event (acceptable risk ranges). (see col. 9, lines 4 – 52); and
- for generating public price information (exchange rate data) to provide updated foreign currency prices of said goods to the customer, based on said pricing rules. (see col. 8, line 49 – col. 9, line 3; col. 11, lines 6 – 43).

Boesch does not explicitly teach a processor processing business transaction information regarding **a plurality of business transactions**, although Boesch does not limit itself to selling only one item or only performing one iteration of the disclosed methodology.

Mancini discloses a processor processing business transaction information regarding a plurality of business transactions (aggregated transactions). (see abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Boesch by incorporating the ability to handle a

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plurality of business transactions, as disclosed by Mancini, rather than handling a solitary business transaction, allowing the system to handle multiple business transactions.

Regarding Claims 21 - 24, Boesch discloses a processor wherein:

- said transaction information is received via at least one transaction data stream (transmission of transaction amount), wherein said public price information is generated as at least one price data stream (exchange rate data), and wherein said hedging instruction information (approval/disapproval) is generated as at least one hedging instruction data stream. (see col. 7, lines 40 – 47; col. 8, lines 49 – 58; col. 9, lines 4 – 52);
- said at least one input further receives, from one of the plurality of FX rate providers or a foreign exchange liquidity provider (currency broker, bank or financial institution), market rate information (exchange rate data) having current market foreign exchange rates (updated exchange rate data), including rates for exchanging said first type of currency to said second type of currency and vice-versa. (see col. 8, line 49 – col. 9, line 3);
- said public price information (displayed exchange rate data displayed to customer) is further based on the received market rate information (exchange rate data received from currency broker, bank or financial instrument). (see col. 8, line 49 – col. 9, line 3; col. 11, lines 6 – 43); and

- said market rate information (exchange rate data) is received via at least one market rate data stream. (see col. 8, line 49 – col. 9, line 3).

Regarding Claims 25 – 28, Boesch discloses a processor wherein:

- said pricing rules (business rules) further define when to update said foreign currency prices (exchange rate data) of said goods, based on at least one of after the expiration of a predetermined time interval (frequency and timing of updates is based on business rules). (see col. 8, line 49 – col. 9, line 3);
- said pricing rules (business rules) further define rules to update said foreign currency prices (exchange rate data) of said goods, based on either the actual current market rate (exchange rate data) or said actual current market rate adjusted by a predetermined amount. (see col. 8, line 49 – col. 9, line 3);
- said hedging rules (programming) further define when to exchange said first and second types of currency, based on at least one of when the current market rate deviates from the market rate information by at least a first predetermined percent (fluctuations in exchange rate). (see col. 9, lines 11 – 51); and
- said hedging rules (programming) further define an amount to exchange said first and second types of currency, based on either a total accumulated revenue of said first type of currency. (see col. 8, lines 49 – 58).

Regarding Claims 29 – 33, Boesch discloses a processor wherein:

- said computerized system (server) is configured within at least one of a local network (see col. 3, line 50 – col. 4, line 17);
- said computerized system is configured within an application service provider (server), remote from said customer (connected to merchant/customer computer via network). (see col. 3, line 50 – col. 4, line 17);
- the at least one output (network) operably arranged with the processor for forwarding at least one hedging instruction data stream (data) to at least one of the plurality of FX rate providers or FX liquidity providers (currency brokers). (see col. 14, lines 2 – 24);
- said market rate data stream (exchange rate) is received from said FX provider of said customer. (see col. 8, line 49 – col. 9, line 3); and
- the plurality of FX rate providers includes a multi-bank website, an individual bank website, a non-bank website offering a live market foreign exchange rate stream and an exchange service based on said price stream, or any combination thereof (currency broker, bank or financial institution). (see col. 14, lines 2 – 14).

Regarding Claims 37 and 54, such claims recite substantially similar limitations as claimed in previously rejected claims. Such claim limitations are therefore rejected using the same art and rationale as previously utilized.

Claims 34 – 36 and 38 - 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boesch and Mancini, as applied to Claims 20 above, and further in view of Pool (US Patent 6,460,020).

Regarding Claims 34 - 35, Boesch does not explicitly teach a system wherein said transaction data stream is received from a business-to-business (B2B) portal, wherein said B2B portal is a medium to allow said customer to buy or sell said goods; nor wherein said B2B portal is at least one of an online marketplace, a vendor website, a purchaser website, or any combination thereof. However, Boesch discloses a method wherein said transaction data stream is received from a merchant and a customer connected to the Internet, wherein said Internet is a medium to allow said customer to buy or sell said goods (as customer shops over the network), and such a portal would be an online marketplace. (see fig. 1; col. 13, lines 5 – 27).

Pool discloses a system wherein:

- said transaction data stream (electronic purchase orders) is received from a business-to-business (B2B) portal (an electronic catalog stored on a publicly accessible database), wherein said B2B portal is a medium (internet/intranet) to allow said customer to buy or sell said goods (ordering system). (see col. 1, lines 9 – 49); and
- said B2B portal is at least one of an online marketplace (electronic merchandise catalogue and ordering system for use on the internet/intranet). (see col. 1, lines 9 – 49).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Boesch and Mancini by incorporating a B2B portal, as disclosed by Poole, allowing for a hedging methodology that oversees business transactions to be incorporated into a portal that enables the conducting of business transactions.

Regarding Claim 36, Boesch discloses a system further comprising the step of forwarding the hedge instruction data streams (approval/disapproval) and the public price data streams (exchange rate data) as an electronic ticket (data) to at least one of said customer. (see col. 11, lines 49 – 64; col. 13, lines 35 – 60).

Regarding Claims 38 - 53, such claims recite substantially similar limitations as claimed in previously rejected claims. Such claim limitations are therefore rejected using the same art and rationale as previously utilized.

Response to Arguments

Applicant's arguments filed 1/09/09 have been fully considered but they are not persuasive.

\$103 Rejection

Applicant argues that prior art fails to teach or suggest, alone or in combination, all the claim limitations of Claim 20. Examiner has re-mapped the asserted prior art to Claim 20 to provide the locations where the claim elements are taught or suggested.

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Applicant asserts that in the prior art (i.e. Boesch) neither the seller nor the buyer deal in multiple types of currencies. However, the claims do not claim that either party is dealing in multiple types of currencies. The claims, as written, merely state that a customer deals in "a first type of currency" and the merchant deals in "a second type of currency."

Nonetheless, Boesch states:

A customer user 203 may have access to amounts in a plurality of customer currencies. For example, a customer user 203 may have accounts containing amounts in United States dollars, French francs, and Japanese yen. The customer user 203 may purchase products using amounts from any of these accounts. To effect this option, the customer computer 200 presents an amount in each of the plurality of customer currencies to the customer user 203. This is done using exchange rate data for each customer currency to convert the merchant accepted currency into amounts in each of the customer currencies. It is preferred that the exchange rate data be provided to customer computer 200 by server 100 at various times. Other mechanisms for obtaining such data include the use of brokers. The customer user 203 selects an amount in one of the plurality of customer currencies in which the customer user 203 will spend for the product. This selected amount represents the amount in the customer selected currency A(CSC) described previously. (emphasis added - see col. 11, lines 24 – 43).

In another embodiment of the present invention, it is expected that a merchant user 303 may desire to transact business in more than one currency. **Therefore, the merchant user 303 will accept a price for the product in one of a plurality of merchant currencies.** The merchant computer 300 communicates the agreed price for the product in each of the merchant currencies to the customer computer 200. The customer computer 200 presents the agreed price in each of the merchant currencies to the customer user 203. The customer user 203 selects the agreed price in one of the merchant currencies that the merchant user 303 will accept. This selected currency may be recommended by the optimization procedure described above. This selected price represents the price in the merchant accepted currency P(MAC), although it is actually selected by the customer user 203. (emphasis added - see para. 12, lines 23 – 38).

Boesch discloses a system wherein the seller and the buyer deal in multiple types of currencies.

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Applicant makes additional arguments such as attempting to differentiate the claimed invention from Boesch, as Applicant asserts that the claimed invention performs actual settlement compared to “the virtual settlement” of Boesch. However, the claims do not claim any settlement. The claims claim monitoring or administering transactions, and transmitting instructions to foreign exchange providers which are much broader terms than settlement.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON M. BORLINGHAUS whose telephone number is (571)272-6924. The examiner can normally be reached on Monday - Friday; 9am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Kramer can be reached on (571)272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason M Borlinghaus/
Examiner, Art Unit 3693
March 29, 2009